PUBLIC SERVICE EMPLOYEE RELATIONS BOARD

1981-82

annual report

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PUBLIC SERVICE

EMPLOYEE RELATIONS BOARD

ANNUAL REPORT

for the

FISCAL YEAR ENDING MARCH 31, 1982

PUBLISHED BY AUTHORITY OF THE
PUBLIC SERVICE EMPLOYEE RELATIONS BOARD

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To His Honour
Frank Lynch-Staunton
Lieutenant Governor of the Province of Alberta

May it please your Honour,

On behalf of the Public Service Employee Relations Board, I respectfully submit to you the Annual Report for the period from April 1, 1981 to March 31, 1982, pursuant to the requirements of Section 77 of The Public Service Employee Relations Act, Revised Statues of Alberta, 1980, Chapter P-33 and amendments thereto.

Respectfully submitted,

Neil Crawford
Government House Leader

To: The Honourable Neil Crawford
Government House Leader

Sir:

I have the honour, on behalf of the Public Service Employee Relations Board, to submit the Annual Report for the fiscal period from April 1, 1981 to March 31, 1982.

Respectfully yours,

D. Blair Mason
Chairman

personnel

PUBLIC SERVICE EMPLOYEE RELATIONS BOARD

Chairman — D. Blair Mason, Q.C.

Alternate Chairman — E. L. Bunnell

Members —

Patrick French

Agnes Helstein

S. Michael Marlowe

Gordon F. May

Executive Director — John F. Elsinga

Secretary — Gordon P. Procinsky

ANNUAL REPORT
OF THE

PUBLIC SERVICE EMPLOYEE RELATIONS BOARD

FOR FISCAL PERIOD ENDING MARCH 31, 1981

introduction

The Public Service Employee Relations Act, Revised Statutes of Alberta 1980, Chapter P-33, came into force on September 22, 1977 upon its proclamation by Order in Council 965/77.

The Act repealed The Crown Agencies Employee Relations Act and certain sections of The Public Service Act, including the Employee Relations part which then governed the bargaining procedures between the Government of Alberta and its general service employees.

The Public Service Employee Relations Act establishes a scheme for collective bargaining with final determination of arbitral items, subject to statutory exceptions, through binding arbitration. Mediation in interest arbitration disputes is provided for by the Act on agreement by the parties with the appointment of a mediator by the Board. The Act also provides a framework for the adjudication of differences as to the interpretation, application or operation of a collective agreement on submission to a single adjudicator by agreement of the parties or a three member board selected either by the agreement of the parties or appointed by the Board.

While the Act is similar in many respects to the Labour Relations Act, which governs collective bargaining in private industry in the province, there are also significant differences between the statutes. Unlike the Labour Relations Act, for example, The Public Service Employee Relations Act prohibits strikes and lockouts and provides for the resolution of arbitral items by means of binding arbitration.

overview

The statistics on Board activities outlined elsewhere in this report will confirm that the 1981-82 fiscal year was a relatively quiet period for collective bargaining in the province's public sector. As a direct result, the Board entertained fewer applications during this period for the establishment of arbitration boards to assist in the resolution of collective bargaining disputes than in the comparable preceding period.

The year was nonetheless a busy one for the Board as the parties affected by the Act requested with increasing frequency that the Board provide direction and make determinations regarding the application of the legislation to certain persons and classifications employed in the public sector. For example, the question as to whether certain persons paid in whole or in part by trust funds constituted employees of the University of Alberta within the meaning of the Act was one which the Board was called upon to decide. Similarly, applications with respect to managerial exclusions from bargaining units and the status of persons employed in a confidential capacity also required the Board to address certain sections of the Act not considered in substantial detail on previous occasions. A single application of this nature can and did affect a large number of persons, and, the year-end statistics on the Board's activities do not adequately reflect the magnitude of such applications.

The Board's administrative staff experienced a considerable increase in work load responding to a continually-growing number of inquiries and requests for assistance from public sector employees who for various reasons consider that they have not been dealt with fairly or promptly by their employer. Such inquiries and requests generally involve an alleged failure to pay wages, vacation pay entitlements or other outstanding benefits and arise most frequently in instances generated by the termination or dismissal of an individual. On an informal basis, and in the absence of fixed employment standards similar to those in force in private sector employment for many such cases, the board's officers have met with considerable success in achieving resolution of these differences.

application

Approximately 50,000 employees in the province and their employers fall within the scope of The Public Service Employee Relations Act. The majority of this number is employed directly by the Crown in right of Alberta in one of some twenty-six departments of the provincial government. For collective bargaining purposes such employees are allocated to one of twelve divisional bargaining units. It is anticipated that the recent enactment by the Legislature of the Technical Institutes Act may result in the re-allocation of a number of employees from the existing divisional bargaining units as the responsibility for the administration of several institutions is shifted from a department of the provincial government to the newly-established boards of governors for these Institutes.

Other employers and their employees to whom the Act applies include the following:

Corporations
- Alberta Home Mortgage Corporation
- Alberta Housing Corporation
- Alberta Oil Sands Technology and Research Authority
- Alberta Opportunity Company
- Hail Crop Insurance Corporation

Commissions
- Alberta Alcoholism and Drug Abuse Commission
- Alberta Petroleum Marketing Commission
- Alberta Racing Commission

Universities and Colleges (academic staff excluded)
- Athabasca University
- University of Alberta
- University of Calgary
- University of Lethbridge
- Banff Centre
- Fairview College
- Grande Prairie Regional College
- Grant MacEwan Community College
- Keyano College
- Lakeland College
- Lethbridge Community College
- Medicine Hat College
- Mount Royal College
- Olds College
- Red Deer College

Hospitals	— Alberta Children's Provincial General Hospital
	— Foothills Provincial General Hospital
	— Glenrose Provincial General Hospital
	— The Provincial Cancer Hospitals Board
	— University Hospitals Board
Boards	— Alberta Liquor Control Board
	— Teachers' Retirement Fund Board
	— Workers' Compensation Board
Councils	— Alberta Research Council

administration and personnel

The Public Service Employee Relations Board is responsible for the administration of the Act. The Board consists of four members, a Chairman and an Alternate Chairman, each appointed to serve on a part-time basis. All members, the Chairman and Alternate Chairman were re-appointed for a two-year term by Order-in-Council issued September 16, 1981.

significant case

MICHAEL F. CONCANNON, GRAHAM D. THORNTON AND MICHAEL D. LAING, CALGARY, ALBERTA V. FOOTHILLS PROVINCIAL GENERAL HOSPITAL, CALGARY, ALBERTA AND THE ALBERTA UNION OF PROVINCIAL EMPLOYEES, EDMONTON, ALBERTA AND THE HEALTH SCIENCES ASSOCIATION OF ALBERTA, EDMONTON, ALBERTA — FILE: 100-041-506.

This matter commenced with an application submitted to the Board on November 21, 1980, by three persons, all employed by the Foothills Provincial General Hospital, Calgary, Alberta. The application requested the Board to determine, pursuant to Section 9 of the Act, whether or not the employment of those persons fell within the scope of the bargaining unit at the Hospital which is known as the paramedical technical bargaining unit and which is represented for collective bargaining purposes by the Health Sciences Association of Alberta.

Until that time the three persons affected had been functioning as employees embraced within the scope of the support staff bargaining unit at the Hospital which was and is represented for labour relations purposes by The Alberta Union of Provincial Employees.

Through one of its officers the Board conducted an investigation into the matter and as well held a hearing at Calgary, Alberta to complete its inquiry. At hearing a preliminary objection was raised by The Alberta Union of Provincial Employees which challenged the Board's jurisdiction. That objection focussed on the lack of authority of the Board to entertain an application for determination from individual employees when such employees, voluntarily or otherwise, have relinquished or lost the right to make individual employment arrangements with their employer when a trade union has been appointed or recognized as the bargaining agent on their behalf.

The Board in its decision agreed with the submissions advanced by The Alberta Union of Provincial Employees and as a consequence did not make the determination which the three affected individuals had requested. However, a subsequent application made by the Health Sciences Association of Alberta did bring the matter before the Board again and resulted in a Board determination.

There is considerable support in Canadian jurisprudence for the principle enunciated by the Board in these proceedings, i.e. the loss of an individual employee's right to negotiate personal terms of employment when a bargaining agent has been recognized or appointed on behalf of the bargaining unit of employees in which he or she is employed.

A recent decision by the Alberta Labour Relations Board may require some direction by the courts on this issue. The Board's decision in an application involving circumstances somewhat similar to those encountered in the Foothills case, and one which has been referred to the courts for review, upheld the right of an individual employee to make an application for determination to the Board.

ANNUAL STATISTICS AND COMPARATIVE DATA

April 1, 1981 to March 31, 1982

Section of Act	Nature of Application		Disposition 1979/80	1980/81	1981/82
*9	Determinations	Granted	1	8	7
		Dismissed	3	3	6
		Withdrawn	1	4	3
		Outstanding	0	5	12
* TOTAL NUMBER OF PERSONS AFFECTED — 352					
23	Professional Exclusion	Granted	0	0	0
		Refused	0	0	0
		Outstanding	0	0	2
25	Certification	Granted	2	4	0
		Refused	8	9	0
		Outstanding	2	0	2
32	Revocation	Granted	0	0	0
		Refused	0	0	0
		Outstanding	0	0	1
37	Consent to Waive	Granted	0	1	0
		Refused	1	0	0
		Withdrawn	0	2	0
		Outstanding	2	0	0
39	Failure to Bargain in Good Faith	Granted	0	0	0
		Refused/Dismissed	0	2	0
		Withdrawn	1	1	0
		Outstanding	2	0	0
46	Appointment of Mediator	Granted	4	4	0
		Withdrawn	0	1	0
		Outstanding	0	0	0
49	Establish Arbitration Board	Granted	1	7	1
		Refused	3	1	0
		Withdrawn	1	6	0
		Outstanding	5	0	0
52	Appointment Chairman & Member Arbitration Board	Granted	1	4	1
		Refused	0	0	0
		Withdrawn	0	0	0
		Outstanding	0	0	0

64	Appointment of Adjudicator	Granted	2	4	3
		Withdrawn	3	0	0
		Refused	4	0	0
		Outstanding	0	0	0
74	Unfair Practice Complaints	Granted	0	0	0
		Dismissed	2	1	4
		Refused/Withdrawn	0	1	4
		Outstanding	0	0	0

Days of Board Hearings
- — 1979/80 15 days
- — 1980/81 25 days
- — 1981/82 22 days

Estimated number of employees affected by Certification
- — 1979/80 1,219
- — 1980/81 594
- — 1981/82 140

Total applications disposed of
- — 1979/80 39
- — 1980/81 63
- — 1981/82 29

Total applications outstanding
- — 1979/80 11
- — 1980/81 5
- — 1981/82 17

budgetary review

Approved Manpower and Operating Costs

PUBLIC SERVICE EMPLOYEE RELATIONS BOARD

		% Change
1979/80	243,700	+13.8
1980/81	277,882	+14.0
1981/82	303,606	+ 9.3

in appreciation

The Board takes this opportunity to publicly express its appreciation to the Honourable Neil Crawford and his Executive Assistant, Mr. John Scrimshaw for their assistance and cooperation in dealing with the concerns of the Board throughout this past year.